

GAHC010253272022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Tr.P.(Crl.)/42/2022

RIMPI DEY ROY AND 3 ORS .
D/O SRI SANJIB KUMAR DEY
R/O VILL- LANKA TOWN,
KANAKLOTA PATH, WARD NO. 5,
P.S. LANKA, P.O. LANKA
DIST. HOJAI, ASSAM, PIN-782435

2: SRI SANJIB KUMAR DEY
S/O LATE REBATI RANJAN DEY
R/O VILL- LANKA TOWN

KANAKLOTA PATH
WARD NO. 5

P.S. LANKA
P.O. LANKA
DIST. HOJAI
ASSAM
PIN-782435

3: SRI SANTOSH DUTTA @ KRANTI DUTTA
S/O LATE BOKUL DUTTA
R/O VILL- LANKA TOWN

KANAKLOTA PATH
WARD NO. 5

P.S. LANKA
P.O. LANKA
DIST. HOJAI
ASSAM
PIN-782435

4: PRODIP KUMAR SARKAR

LATE PHANINDRA SARKAR
R/O BHETIONI GAON
P.S. BATADRABA
P.O. LALUNG
DIST. NAGAON
ASSAM

PIN NO. 78212

VERSUS

PUJAN ROY
S/O SRI BADAL ROY
R/O DOKMOKA TOWN,
WARD NO. 2,
P.S. AND P.O. DOKMOKA
DIST. KARBI ANGLONG, ASSAM,
PIN-782441

Advocate for the Petitioner : MS. M R DEVI

Advocate for the Respondent : MS. T SOM

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

17.07.2023

Heard Ms. M. R. Devi, learned counsel for the petitioners as well as Ms. T. Som, learned counsel for the respondent.

This is an application under Section 407 of the Code of Criminal Procedure praying for transfer of CR Case No. 23/2022 pending in the court of the Judicial Magistrate 1st Class, Diphu, Karbi Anglong to the Court of the Chief Judicial Magistrate, Hojai, Sankardev Nagar.

The petitioners Rimi Dey Roy is married to the respondent Pujan Roy. After their marriage, they used to reside in the district of Karbi Anglong where Pujan Roy has his residence. After some time, marital disputes started to arise. Rimi Dey Roy filed the Complaint Case No. 23 of 2022 at Diphu and, thereafter, she was compelled to leave her matrimonial house. She returned to her parent's house at

Hojai. After reaching Hojai, Rimi Dey Roy filed more than one cases against her husband at Hojai. Her husband has been contesting these cases at Hojai.

Now, Rimi Dey Roy prays before this court that she being a lady, it is difficult for her to go to Diphu to contest or prosecute the criminal case at Diphu. Therefore, she filed the present application praying for transferring the criminal case to Hojai.

The husband Pujan Roy has filed an affidavit in reply stating that the ground on which his wife has prayed for transfer of the criminal case to Hojai, is baseless.

Ms. Som submits that the distance between Hojai and Diphu is less than 100 kms. and therefore, the distance itself does not create any hardship.

Ms. M.R. Devi, on the other hand, submits that since the husband has been contesting the other cases at Hojai, it will not create any impediment for him to contest the present case at Hojai.

I have considered the submission made by the learned counsel for both the sides.

The basic foundation of Section 407 of the CrPC is that each of the parties to a litigation should have fair and impartial opportunity to contest the case. The petitioner is a women and it is quite natural that some amount of hardship will be caused to her if she is compelled to travel from Hojai to Diphu to prosecute the case. Whereas, the husband Pujan Roy has been contesting other cases at Hojai in that case it will not be difficult for him to contest another case at Hojai.

For the aforesaid reason, this court is satisfied that the petitioner have placed a good case for them. Their transfer petition is allwed. The CR Case No. 23/2022 pending in the court of the Judicial Magistrate 1st Class, Diphu, Karbi Anglong shall be transferred to the court of the Chief Judicial Magistrate, Hojai, Sankardev Nagar, Hojai.

The transfer petition is disposed of accordingly.

JUDGE

Comparing Assistant